

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMALL S. BAKER,

Plaintiff,

v.

TAMMY O'REILLY, et al.,

Defendants.

Case No. 2:21-cv-00361-MJP

ORDER RE: SETTLEMENT
CONFERENCE WITH UNITED
STATES MAGISTRATE JUDGE

This matter comes before the Court on the parties' joint request for settlement conference and the Honorable Marsha J. Pechman's order granting the parties' request and referring this case for settlement purposes. Dkt. 221, Joint Status Report, at 2; Dkt. 224, Order Granting Motion for ADR and referring settlement conference, to Magistrate Judge Theresa Fricke.

Accordingly, the Court orders as follows:

The parties are directed to appear for a Settlement Conference to be held via Zoom Conference before the United States District Court for the Western District of Washington at Tacoma. The Conference will start at 9:00 AM on December 17, 2024, and will conclude no later than 3:00 PM. The Court will provide the parties with instructions to access the Zoom Conference separately from this Order. The required settlement memoranda, more fully described below, are due no later than 1:30 PM on December 12, 2024.

1 Persons with ultimate settlement authority must be personally present at the
2 settlement conference or readily available by phone.

3 Participation of parties at the settlement conference – appearing on
4 videoconference – is likely to increase the efficiency and effectiveness of the settlement
5 conference. **All parties shall participate in the Zoom Conference with counsel.** A
6 request to be exempt from this requirement should be submitted to the Court in writing
7 no later than noon on November 12, 2024. Please address any request to Anna
8 Mendoza, Judicial Law Clerk to Magistrate Judge Fricke, at
9 anna_mendoza@wawd.uscourts.gov. The email subject line should include your case
10 number and “Request for non-appearance of a party.”

11 Parties not appearing on Zoom videoconference shall be available by phone and
12 email (including the ability to review documents and sign) for the duration of the
13 settlement conference.

14 Any counsel appearing without authority to negotiate, or without the ability to
15 readily contact the person with full and ultimate settlement authority throughout the
16 settlement conference, may be sanctioned.

17 Other persons who may increase the probability of settling the case should be
18 present, if possible. For example, the attendance of an expert may be helpful. Counsel
19 assisting the client on related matters may need to be involved. At the very least,
20 contact information should be available for them at the conference.

21 The Court directs plaintiff to make a settlement demand on or before 5:00 PM on
22 December 3, 2024, and defendant is directed to respond to that demand on or before
23 5:00 PM on December 10, 2024.

Each party shall provide, **in confidence**, a concise settlement memorandum **no longer than ten double spaced pages and which should not include attachments or exhibits unless under extraordinary circumstances**. Please do not file these confidential memoranda with the Clerk's Office or serve the memoranda on opposing counsel. Each party's confidential memoranda shall include a brief description of:

1. any liability disputes;
2. facts you believe you can prove at trial;
3. the monetary value at issue in the case;
4. the major weaknesses in each side's case, both factual and legal;
5. the history of settlement negotiations thus far;
6. the party's settlement position;
7. the major obstacle(s) to settlement as you perceive it;
8. reference (by docket number) to any pending motions that would have a significant effect on settlement for the Court to review prior to settlement;
9. special issues that may have a material bearing upon settlement discussions;
- and
10. any person(s) (with a description of their position or role) you plan to bring to the settlement conference.

In setting forth your settlement position, please do not limit your discussion to arguments on the merits of your case. For the Court and the parties to be successful in the limited time provided for this settlement conference, you should provide the Court with a clear and candid understanding of your and your client's actual evaluation of the interests, value, and monetary aspects that your client is most concerned about in any

1 potential settlement of this case and an idea of terms under which you believe the case
2 should settle.

3 The memorandum shall include the case number, case name, and should be
4 emailed directly to Magistrate Judge Fricke, at: anna_mendoza@wawd.uscourts.gov.
5 The email subject line should read: “**Confidential – Baker v. O’Reilly, - December 17,**
6 **2024– [Defendant/Plaintiff’s name] Settlement Position Paper.**” Do not mail hard
7 copies of the settlement memorandum to chambers.

8 Counsel for the parties may be contacted by the Court to answer questions,
9 clarify issues, and discuss other preliminary matters designed to ensure the conference
10 itself is productive. Counsel may contact the Court by sending an email to Judicial Law
11 Clerk Anna Mendoza at: anna_mendoza@wawd.uscourts.gov if counsel would like to
12 request an appointment with Magistrate Judge Fricke to address any matter they
13 believe needs to be discussed in advance, including any request to use exhibits,
14 technology-assisted presentations, or conduct lengthy opening statements.

15 It is the duty of the parties to notify the Court if trial is continued or if the case is
16 settled or otherwise disposed of prior to the date of the scheduled settlement
17 conference, so that the matter may be removed from the Court’s docket.

18 In the time period immediately preceding the settlement conference, if either
19 party believes that negotiation attempts would not be fruitful at the time set for the
20 conference for any reason, that party should contact the Court as soon as possible to
21 discuss the concern. Counsel for the parties are strongly encouraged to engage in
22 preliminary discussions with an eye toward meaningfully narrowing their disputes before
23 appearing for the Conference.

1 The Court expects that each participant will be well-prepared, open-minded, and
2 sincerely interested in achieving settlement. To encourage open communication, the
3 Court orders that all matters communicated in connection with this judicial settlement
4 are confidential and not to be used for any other purpose.

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7 Dated this 11th day of October, 2024.

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11 Theresa L. Fricke
12 United States Magistrate Judge
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